

## **INITIAL STATEMENT OF REASONS**

### **Addition of Section 552, California Code of Regulations**

#### **SPECIFIC PURPOSE OF THE REGULATION:**

Pursuant to the Bagley-Keene Open Meeting Act, at Government Code section 11120 et. seq., the California Public Employees' Retirement System (CalPERS) currently provides the required notice of its meetings to those who have requested such notice, in hard copy via the U.S. Postal Service. Board meeting notices are sent to employers, member organizations, and other interested parties doing business with CalPERS.

Government Code section 11125, subdivision (a), requires a state body to provide notice of its meetings to any person who requests that notice in writing, stating, "Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting ...." The section specifies those items that must be included in the notice. However, beyond stating "The *written* notice shall additionally include the address of the internet site where notices required by this article are made available," the section does not specify the mechanism by which notice must be given.

The purpose of this proposed regulation is to interpret "written notice" to include sending such notice via electronic mail.

#### **California Code of Regulations, section 552 - Purpose of Proposed New Section:**

Section 552 to title 2, division 1, chapter 2, subchapter 1, article 1 of the California Code of Regulations, (hereinafter "section 552") will interpret "notice," as required by Government Code section 11125, to include notice via electronic mail.

The addition of section 552 will assist in administering the provisions of the Bagley-Keene Act and will provide appropriate alternative formats of communication for receiving Board meeting notices to CalPERS members, employers, and interested parties. Adopting this regulation will allow CalPERS to achieve cost savings, support CalPERS environmentally-friendly efforts, and increase the quality of customer service delivery.

#### **NECESSITY**

Government Code section 11125 does not specify the mechanism by which notice must be provided. To interpret that section as allowing electronic notification is a "standard adopted by any state agency to ... interpret or make specific the law enforced or administered by it," pursuant to Government Code

section 11342.6000, and therefore must be adopted as a regulation in compliance with section 11340.5.

This proposed addition to the California Code of Regulations pertaining to expanding the delivery methods used in disseminating the CalPERS Board meeting notice will enable CalPERS to increase the quality of customer service and should allow CalPERS to realize immediate cost savings by reducing or eliminating the mass production of Board meeting notices and the attendant postage expenditure, as well as offer more environmentally-friendly options for interested parties to receive the required notice. The new regulation will give CalPERS the flexibility to use electronic mail as the primary mechanism by which it sends notice of Board meetings, with interested parties being able to specifically request hard copies if desired.

This rulemaking action is consistent with that of other state agencies, including the Board of Equalization, which have interpreted Government code section 11125 to allow the electronic mailing of board meeting notices. (See title 18, Cal. Code of Regs, section 5530.)

#### **TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS**

Not Applicable

#### **ALTERNATIVES TO THE REGULATORY ACTION AND CALPERS' REASONS FOR REJECTING THOSE ALTERNATIVES**

The Administrative Procedures Act requires that any rule, regulation, or standard of general application adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, must be adopted through the formal rulemaking process as a "regulation." Since CalPERS' decision to interpret the Bagley-Keene Open Meeting Act, specifically Government Code section 11125 notice requirements, as allowing electronic mailing of that notice, is a "standard of general application" to "interpret or make specific the law administered by it," CalPERS believes there are no reasonable alternatives to regulatory action.

#### **ALTERNATIVES TO THE REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES:**

The proposed action has no cost impact on either small businesses or on persons in the private sector.